

ARTICLE VII.

EMINENT DOMAIN*

* **Editors Note:** Ord. No. 2003-5, § 1, adopted April 15, 2003, did not specifically amend the Code. Hence, its inclusion herein as article VII, sections 13-901, 13-902, was at the discretion of the editor.

Sec. 13-901. Intent and purpose.

(a) Pursuant to F.S. chs. 73 and 74, the county and other governmental or public agencies have the authority to acquire property in order to provide public improvements necessary to adequately serve the general public and citizens of the county. In certain cases, acquisition causes the parcel, structure or use on the property to become nonconforming under the county's land development regulations.

(b) It is the intent of this article to provide exemptions from regulations as to setback, lot size, signage, landscaping/buffering and other such regulations as to lots that have been reduced in size due to condemnation action.

(c) The recognition of such lots which have been subjected to the eminent domain process either through acquisition or negotiation a viable and fair alternative is intended to prevent any adverse impact to the lot owner's property as a result of the acquisition process and allow the continued use of the property in a manner similar to its preacquisition condition. By providing for such recognition, and for the acquiring authority and/or property owner to determine the remaining allowable uses of the property, the cost of acquisition of real property needed for public facility improvements would be reduced.

(Ord. No. 2003-5, § 1, 4-15-03)

Sec. 13-902. Eminent domain lots.

Notwithstanding the limitations imposed by any other provisions of the county land development regulations, any lot or parcel which has been reduced in size due to an eminent domain acquisition shall continue to be recognized as a legal lot or parcel for all purposes of the county land development regulations except as otherwise provided herein. Such a lot may be designated as an eminent domain lot (EDL) and shall be considered a nonconforming use as defined in this Code with all rights and privileges as set forth in article VI, chapter 13 of the county land development regulations. Building permits may be issued for such a parcel or lot to allow the erection, expansion, alteration, or replacement of any legal use together with accessory buildings as permitted within the applicable zoning classification as follows:

(1) Single-family dwellings and their accessory buildings constructed, or to be

constructed, upon an EDL shall not be required to comply with the minimum setback requirements applicable in the zoning district in which the EDL is located. Every effort shall be made to comply with the following minimum setback requirements: a minimum setback of fifteen (15) feet from any right-of-way line and five (5) feet from any side and rear lot line. No accessory structure in any residential district shall be permitted less than five (5) feet from a side or rear lot line and fifteen (15) feet from any front lot line unless approved by the department of public services. Existing single-family dwellings shall be allowed to expand, be altered or replaced, provided that such improvements do not further encroach into the established setbacks, if less than the minimum for the district in which they are located.

(2) Undeveloped commercial or industrial zoned EDL parcels or lots shall not be required to meet minimum lot area and/or width requirements but shall conform with all other district regulations for the district in which the EDL is located.

(3) Developed commercial or industrial zoned EDL parcels or lots shall not be required to meet minimum lot area and/or width requirements and shall be allowed to expand, alter, or replace existing structures provided that such improvements do not further encroach into the established setbacks if less than the minimum for the district in which the EDL is located.

(4) Signage shall not be required to meet required setback provisions, provided, however, no sign shall be located so as to cause a safety hazard.

(5) Landscaping and/or buffering requirements shall not be required to meet Code requirements as to the property taken by eminent domain but any side and rear requirements shall remain in effect.

(6) If the size of any parking area is reduced, or if the parking area must be relocated because the terms and conditions of the county land development regulations cannot be met, a variance may be granted by the ZAB.

(Ord. No. 2003-5, § 1, 4-15-03)